

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF INTERGRATE)	
RESOURCE PLANNING OFR THE)	
PROVISION OF STANDARD OFFER)	
SUPPLY SERVICE BY THE DELMARVA)	
POWER AND LIGHT COMPANY UNDER 26)	
DEL. C. SECTION 1007 (c) & (d):)	PSC DOCKET NO. 06-241
REVIEWING AND APPROVAL OF THE)	
REQUEST FOR PROPOSALS FOR)	
THECONSTRUCTION OF NEW)	
GENERATION RESOURCES UNDER 26 DEL.)	
C. SECTION 1007 (d) AUGUST 18 2006)	

**INITIAL COMMENTS OF THE PUBLIC ADVOCATE
AUGUST 31, 2006**

Division of the Public Advocate
John C. Citrolo
Carvel State Office building, 4th Floor
Wilmington, DE 19801
302-577-5077

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF INTERGRATE)	
RESOURCE PLANNING OFR THE)	
PROVISION OF STANDARD OFFER)	
SUPPLY SERVICE BY THE DELMARVA)	
POWER AND LIGHT COMPANY UNDER 26)	
DEL. C. SECTION 1007 (c) & (d):)	PSC DOCKET NO. 06-241
REVIEWING AND APPROVAL OF THE)	
REQUEST FOR PROPOSALS FOR)	
THECONSTRUCTION OF NEW)	
GENERATION RESOURCES UNDER 26 DEL.)	
C. SECTION 1007 (d) AUGUST 18 2006)	

INITIAL COMMENTS OF THE PUBLIC ADVOCATE

I. Introduction

Pursuant to the Rules of Practice and Procedure of the Delaware Public Service Commission, (“the Commission”), the Delaware Division of the Public Advocate (“the DPA”) hereby submits these comments concerning Delmarva Power and Light Company’s (“Delmarva”) request for proposals (“RFP”), pursuant to the Electric Utility Retail Customer Supply Act of 2006 (“Supply Act”), codified at 26 Del. C. § 1007.

The Supply Act requires that Delmarva Power file with the Commission on December 1, 2006 an Integrated Resource Plan (“the IRP”) regarding its purchased power. Prior to the filing of the IRP, the Supply Act requires Delmarva Power to file on or before August 1, 2006 an RFP that seeks to obtain long-term contracts from a new generation resource in Delaware. The Supply Act does not require Delmarva Power to

enter into any contracts as a result of the RFP. Delmarva Power presented its RFP at a public workshop, conducted on August 18, 2006 at Legislative Hall, in Dover, Delaware.

II. Discussion

The DPA attended the workshop and has reviewed the RFP. The DPA has concluded that the RFP meets the *minimum* requirements of the Supply Act. However, the RFP is narrow when juxtaposed with the overall energy policy of the General Assembly, as demonstrated over the last two legislative sessions. Specifically, that policy is reflected in the “Renewable Energy Portfolio Standards Act” (“RPS”) and the “Green Energy Fund,” as amended. These legislative initiatives are codified, respectively, at 26 Del. C. ch. I, Subchapter III-A and 29 Del. C. § 8057.

Furthermore, the DPA believes that the focus of the Supply Act must be expanded, in light of the announcement by PJM Interconnection of a Regional Transmission Expansion that includes Delaware and the NRG facility at Indian River.¹ This announcement was subsequent to the passage of the Supply Act. As part of the “Mid-Atlantic Power Pathway” a major new interstate transmission line will be constructed to Indian River, including connections to Vienna, VA and Salem, NJ. The proposed transmission line will improve reliability for Delaware customers and reduce congestion costs. In addition, the proposed line will increase Delaware consumers’ access to lower cost generation sources, thereby stemming the tide of increasing electric costs for consumers and, perhaps, even reducing those costs. Therefore, the heavy weighting of “lowest cost” in Delmarva Power’s RFP, though consistent with the statute, may be too narrow a focus with respect to overall consumer benefits.

¹ A copy of the announcement is appended hereto as Attachment I.

The very existence of the DPA supports a strong presumption that consumers prefer the lowest reasonable cost for utility services.² This should not be interpreted, however, as an impediment for the DPA to be able to perform a cost-benefit analysis that takes into account the cost of preserving the environment in Delaware. The DPA is very aware of the need to preserve and protect the environment as well as to seek the lowest reasonable rates for utility service that would adequately recognize environmental costs.

The DPA has been satisfied with the Indian River plant operated by NRG. NRG is a prominent corporate citizen. We applaud NRG's continued environmental compliance, its commitment to further reducing emissions with new technology with regard to coal generation, and its provision of reliable electricity service to the power pool. The DPA believes that this will continue and further be expanded by the "Mid-Atlantic Power Pathway" project referenced above, whether or not Delmarva accepts a proposal pursuant to the Supply Act. Delaware's access to low cost generation is more a function of transmission than it is of generation.

Therefore, it is not imperative that the RFP heavily weight "lowest cost" generation, since Delaware will continue to have access to low cost, reliable generation, like that provided by NRG. In fact, this access will be expanded during the same planning horizon as the Supply Act (2014). The Supply Act affords State Agencies, such as the DPA, an opportunity to evaluate both the feasibility and cost of renewable energy.

It is in this vein that the DPA recommends that the Commission evaluate and design the RFP. Let us see what it costs to have renewable energy generation constructed to supply Delaware's energy needs, alongside a traditional fossil fuel proposal. The DPA

² 29 Del. § 8716 (d)(2) "To advocate the lowest reasonable rates for consumers consistent with the maintenance of adequate utility service and consistent with an equitable distribution of rates among all classes of consumers."

is cognizant of the fact that “lowest cost” must still be weighted; otherwise there would be little incentive for a bidder to bid its lowest cost.

Moreover, it seems that now it may be unfair to characterize fuel sources such as wind as “cost prohibitive.” Cost for the construction and operation of wind turbines have come down dramatically.³ The DPA expects to see the cost reflected in a bid from a wind provider to be competitive.

It is obvious to the DPA that the foregoing more accurately reflects the intent of the General Assembly as embodied in 26 Del. C. § 1007(d)(1). There is certainly great value in obtaining many proposals. It is during the review of such proposals that the cost-benefit analysis should be performed, not in the RFP.

Lastly, the DPA is concerned that the threshold requirements of the RFP, such as, credit, accounting, security, contract, and safety may be so limiting that the only qualified bidder in the state will be Conectiv Energy Supply, Inc., (“CESI”), another wholly owned subsidiary of Pepco Holdings, Inc.

III. Summary and Recommendations

In view of the foregoing, the DPA respectfully recommends:

1. That the weighting factor is changed to reflect “price stability” instead of “price,” and that this weight is no more than forty percent, (40%);
2. That the “bid fee” be reduced from ten thousand dollars, (\$10,000) to three thousand dollars, (\$3,000);⁴
3. That the security requirements be softened to reflect more conventional security arrangements of power purchase agreements. For example, the

³ See “Economics of Wind Energy,” American Wind Energy Association, February 2005.

⁴ See, Section 1.1(5).

asset collateral pledge should be changed to include other debentures, such as a collateral asset bond, instead of the now draconian requirement of having a lien placed on the generator's asset,⁵ and the security equivalent of approximately one half billion dollars that NRG claims to be required for a 200 Megawatt facility,⁶ needs to be reduced;

4. That the "reductions in environmental impact" weight is increased, as suggested by the comments of the University of Delaware's College of Marine Studies at the August 18, 2006 workshop.⁷
5. That Section 2.2, "Proposal Evaluation Process," be amended to include the Division of the Public Advocate.

This concludes the comments of the Division of the Public Advocate.

⁵ See, Section 3.4, and as presented by Delmarva's August 18, 2006 handout at 8; also, NRG comments, Tr. at pp. 88-89.

⁶ Comments of Mr. Sissener, Transcripts pp 89, lines 1-11.

⁷ Tr. At p. 68 lines 17-24.